

09-CV-05093-ORD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

COLUMBIA STATE BANK, a Washington
state banking corporation

Plaintiff,

v.

DINGHY DANCER, Official No. 931897, its
Engines, Machinery, Appurtenances, etc.,
In Rem;

and

BRIAN R. BRUMBAUGH,
In Personam,

Defendants.

IN ADMIRALTY

Case No.

C09-5093

~~(PROPOSED)~~

ORDER APPOINTING
SUBSTITUTE CUSTODIAN AND
AUTHORIZING MOVEMENT
AND INSPECTION OF
DEFENDANT VESSEL

Plaintiff, Columbia State Bank by and through its attorneys, John E. Casperson of
Holmes Weddle & Barcott, P.C., having appeared, now make the following recitals:

1. On February 18, 2009 the Complaint herein was filed praying that the
defendant vessel DINGHY DANCER, Official No. 931897, her engines, machinery, and
appurtenances etc. ("Vessel"), be condemned and sold to pay plaintiff's claims and for
other proper relief.

~~(PROPOSED)~~ ORDER APPOINTING SUBSTITUTE
CUSTODIAN AND AUTHORIZING MOVEMENT AND
INSPECTION OF DEFENDANT VESSEL - 1

HOLMES WEDDLE & BARCOTT, PC
999 THIRD AVENUE, SUITE 2600
SEATTLE, WA 98104-4011
TELEPHONE (206) 292-8008
FAX (206) 340-0289

1. 2. In the immediate future, the Clerk of this Court is expected to issue a
2. warrant for arrest of the Vessel, commanding the United States Marshal for this District
3. to arrest and take into custody the Vessel and to detain the same in his custody until
4. further order of this Court respecting same.

5. 3. It is contemplated that the United States Marshal will seize the Vessel
6. forthwith. Custody by the United States Marshal requires the services of one or more
7. keepers at charges substantially in excess of those to be made by the substitute custodian
8. alone, not including charges for moorage and the other services usually associated with
9. safekeeping vessels similar to the defendant Vessel.

10. 4. The Vessel is currently located at Pleasure Craft Marina, 3215 Harborview
11. Dr., Gig Harbor, Washington. Plaintiff is agreeable to allow Paul Piercey to assume the
12. responsibility of safekeeping the Vessel, and Paul Piercey has consented to act as her
13. custodian until further order of this Court. Paul Piercey has also consented to move the
14. Vessel from her current location to a suitable marine facility, if necessary.

15. 5. Paul Piercey, by his certification submitted herewith, states that he can
16. arrange for adequate facilities and supervision for the proper safekeeping of the Vessel as
17. set forth in his certification. Further, in said certification, substitute custodian accepts, in
18. accordance with the terms of this order, possession of the Vessel, her engines, machinery,
19. and appurtenances etc., which is the subject of the action herein.

20. 6. In consideration of the United States Marshal's consent to the appointment
21. of Paul Piercey as substitute custodian, plaintiff agrees to release the United States and
22. the United States Marshal from any and all liability and responsibility arising out of care
23. and custody of the Vessel, from the time the United States Marshal transfers possession
24. of the Vessel over to said substitute custodian, and plaintiff further agrees to hold
25.

26. (PROPOSED) ORDER APPOINTING SUBSTITUTE
CUSTODIAN AND AUTHORIZING MOVEMENT AND
INSPECTION OF DEFENDANT VESSEL - 2

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1. harmless and indemnify the United States and the United States Marshal from any and all
2. claims whatsoever arising out of the substitute custodian's possession and safekeeping.

3. THEREFORE, IT IS ORDERED that the United States Marshal for the Western
4. District of Washington is authorized, upon seizure of the Vessel, pursuant to Warrant for
5. Arrest, to surrender the possession thereof to Paul Piercey as substitute custodian named
6. herein, and that upon such surrender the United States Marshal shall be discharged from
7. the duties and responsibilities for the safekeeping of the Vessel and held harmless from
8. any and all claims arising whatever out of said custodial services.

9. IT IS FURTHER ORDERED that Paul Piercey is appointed substitute custodian
10. of the Vessel and shall retain the Vessel in his custody for possession and safekeeping
11. until further order of this Court and that Paul Piercey may move the Vessel from her
12. current location to a secure facility within the district, if necessary. All costs for such
13. movement shall be paid by plaintiff, and may, upon further order of this Court, be deemed
14. administrative costs herein.

15. IT IS FURTHER ORDERED that the substitute custodian may permit boarding
16. and inspection of the Vessel by marine surveyors, representatives of plaintiff and
17. prospective purchasers in order to determine the Vessel's condition and value. All costs
18. of such boardings and inspections shall be paid by the party permitted to board and
19. inspect the vessel or may, upon further order of this Court, be deemed administrative
20. costs herein. All persons entering on board the Vessel shall execute a waiver and release
21. in the form attached hereto.

22. IT IS FURTHER ORDERED that plaintiff's attorney serve a copy of this order on
23. the owner of the Vessel or the owner's agent.

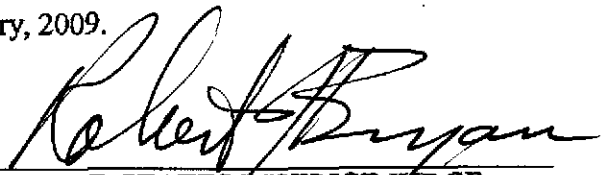
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26. (PROPOSED) ORDER APPOINTING SUBSTITUTE
CUSTODIAN AND AUTHORIZING MOVEMENT AND
INSPECTION OF DEFENDANT VESSEL - 3

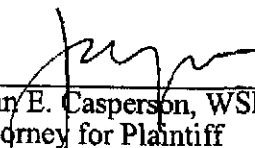
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1. It is further requested that the Clerk of this Court deliver three certified copies of
2. this order to the United States Marshal forthwith.

3. DATED this 19th day of February, 2009.

4. 
5. UNITED STATES DISTRICT JUDGE

6. Presented by:
7. HOLMES WEDDLE & BARCOTT, P.C.

8. 
9. John E. Casperson, WSBA #14292
10. Attorney for Plaintiff

11. Approved for Entry: Michelle Sticker for
12. William J. Howe
13. UNITED STATES MARSHAL
14. Western District of Washington

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26. (PROPOSED) ORDER APPOINTING SUBSTITUTE
CUSTODIAN AND AUTHORIZING MOVEMENT AND
INSPECTION OF DEFENDANT VESSEL - 4

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